

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

THOMAS BLITZ, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

ORDER

17-cv-473-wmc

MONSANTO COMPANY AND
SCOTTS MIRACLE-GRO COMPANY,

Defendant.

The court is in receipt of plaintiff's notice of voluntary dismissal of plaintiff's claims against defendant Scotts Miracle-Gro Company. (Dkt. #43.) Although styled as a notice under Rule 41(a)(1)(A)(i), the Seventh Circuit has determined that Rule 41(a) is limited to dismissing an "action" -- as in an entire case with the possible exception of a counterclaim under Rule 41(a)(2), not individual claims -- with voluntary dismissal of individual claims or parties falling under Rule 15(a). *See Taylor v. Brown*, 787 F.3d 851, 857-58 (7th Cir. 2015). As such, the court will construe plaintiff's notice as a request to amend the complaint to remove this defendant.¹ Moreover, having been advised by both defendants that they have no objection, the court will grant that request. While the current complaint will remain the operative pleading unless otherwise amended, like the claims of other named plaintiffs previously dismissed, Blitz's claims against Scotts Miracle-Gro are DISMISSED and the clerk is ordered to TERMINATE defendant Scotts Miracle-Gro.

Entered this 7th day of November, 2017.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge

¹ After giving defendants an opportunity to object, the court similarly entered an order dismissing the other named plaintiffs as originally proposed by an earlier Rule 41(a) stipulation. (Dkts. #32, 33.)